

REMARKS

This application has been reviewed in view of the Office Action mailed on May 19, 2005. Claims 1-22 are pending in the application. Claims 1, 18, 21 and 22 are in independent form. Applicant gratefully acknowledges the Examiner's allowance of Claim 21, and conditional allowance of Claims 16 and 17 if amended to be written in independent form with all of the limitations of the base claim and any intervening claims. By the present amendment, Claims 1, 18 and 22 have been amended in a manner which is believed to overcome the rejections contained in the Office Action. No new matter or issues are believed to be introduced by the amendments.

In the Office Action, claims 1, 2, 5-13, 15, 18-20 and 22 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,789,516 to Shreesha (the '516 patent). Claims 3 and 4 were rejected under 35 U.S.C. 103 (a) as being unpatentable over the '516 patent in view of U.S. Patent No. 5,576,529 to Koenck et al. (the '529 patent). Claim 14 was rejected under 35 U.S.C. 103 (a) as being unpatentable over the '516 patent in view of U.S. Patent No. 6,837,431 to Carlson et al. (the '431 patent).

The '516 patent is directed to a hand-held scanning device which employs apparatus for varying the depth of field of the scanning device. The scanning device comprises a gun-shaped housing for fitting within the hand of an operator. The scanning device is actuated by *a finger-activated trigger, which moves a CCD sensor* on an image plane as the trigger is pulled. In this manner, focusing for large depth of field applications is achieved. See Abstract of the '516 patent.

Accordingly, with regard to claims 1, 13, 18 and 22, the Office Action states that “a finger-activated trigger (412) and the linkage member between the trigger and the optics (617 of a figure 9) together serving as a piezo-actuator assembly for moving the optics to focus the target image on the detector...”. Applicants agree that the ‘516 patent discloses a finger-activated trigger and linkage member for moving the optics to focus the target image on the detector. However, as discussed below, the combination of these elements do not serve as a piezo-actuator assembly as recited in the claims of the present invention.

For example, the term “piezo”, by definition, implies that there is structure which imparts a pressure for performing a given function. The piezo actuator assembly of the present invention is maintained in constant contact with the lens assembly such that movement of the piezo actuator assembly will cause movement of the lens assembly to focus the target image. See, for example, page 16, lines 5-24 of the present application.

Additionally, the independent claims 1, 18 and 22 have been amended in a manner which further defines the present invention over the ‘516 patent (even assuming, *arguendo*, that the examiner’s arguments have merit). The independent claims have been amended to include the capability of receiving a control signal which controls movement of the piezo actuator assembly for focusing the target image. Therefore, even if the structures cited by the examiner may be considered a piezo actuator assembly, that structure is not capable of receiving a control signal, as recited in the independent claims.

Since claims 2-17 and 19-20 depend, either directly or indirectly, from independent claim 1 or 18 and contain all of the features of claim 1 or 18, for the reasons presented above for the patentability of claims 1 and 18, it is respectfully submitted that claims 2-17 and 19-20 are also

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patentable.

It is respectfully submitted that none of the references of record disclose or suggest the present invention as claimed in the claims as amended, considered individually or in combination, with themselves, considered in whole or in part. Accordingly, withdrawal of the rejections is respectfully requested.

In view of the foregoing amendments and remarks, reconsideration of the rejections and objections and allowance of the claims are earnestly solicited.

Respectfully submitted,



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